

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

APPEAL FROM ORDER No 23 of 1995

WITH

CIVIL APPLICATION NO 352 OF 1995

For Approval and Signature:

Hon'ble MR.JUSTICE J.R.VORA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
 5. Whether it is to be circulated to the Civil Judge? : NO

MOHANLAL C

Versus

DEVIDAS C & ORS

Appearance:

MR SURESH M SHAH for Petitioner
MR RJ OZA for Respondent No. 1 - 3/6
Respondent No. 3/7 served

CORAM : MR.JUSTICE J.R.VORA

Date of decision: 07/11/2000

ORAL JUDGEMENT

1. Present appellant - Mohanlal Chhatamal, filed one Misc. Civil Application No. 118 of 1990, in the Court of Civil Judge (SD), Bhavnagar, for permitting him to

file a suit against the present respondent as indigent person. With the above said Misc. Civil Application No. 118 of 1990, present appellant also preferred an Application at Exh.5, for interim injunction, restraining the present respondents from assigning or transferring

the suit property till the disposal of the suit. At the first instance, on 11th October, 1990, learned Civil Judge (SD), Bhavnagar, granted an order of status quo in favour of the plaintiff and directed the parties to maintain status quo with respect to the properties involved in Misc. Civil Application No. 118 of 1990.

2. Application - Exh.5 in Misc. Civil Application No. 118 of 1990 was then heard by learned Civil Judge (SD) at Bhavnagar, and after hearing both the parties, vide his order dated 31st December, 1994, learned Trial Judge came to the conclusion that the Application - Exh.5 of the present appellant was required to be rejected and the order of status quo earlier granted was vacated. Being aggrieved with above this order passed by learned Civil Judge (SD), Bhavnagar, this Appeal From Order is filed by the plaintiff - appellant. The appellant has also preferred an Application being Civil Application No. 352 of 1995, wherein this Court had granted order of status quo in favour of the appellant on 6.7.1995. It appears that thereafter the Appeal and the Civil Application, both came to be dismissed for default and were restored.

3. Learned Advocate Mr.S.M.Shah for the appellant and learned Advocate Mr.R.J.Oza for the respondents were heard.

4. From the record of the Appeal, it clearly appears that the matter in the Trial Court still is at a stage of considering the application of the present appellant for

permitting him to sue the present respondent as indigent person and this matter is still not decided. The first order of status quo which was granted below Exh.5 is dated 11th October, 1990 and the order of maintenance of status quo was time to time extended till at this appellate stage.

5. Having regard to the age of this litigation, on a very preliminary stage, it would be in the interest of justice that without entering into the merits of this Appeal, the Trial Court is directed to dispose of the Civil Misc. Application No.188 of 90 pending on his file

since last 10 years. In this view of the matter, for the early resolution of the dispute, the just and better course therefore would be to direct the Trial Judge as under, and to dispose of this Appeal.

6. In view of the above discussion, Civil Judge (SD), Bhavnagar, is directed to dispose of Misc. Civil Application No. 118/90 filed by the present appellant against the present respondent within 15 days either from the date of receipt of the writ of this court or producing the certified copy of this order by any of the parties before the learned Civil Judge (SD), Bhavnagar, whichever is earlier in point of time.

7. If the learned Civil Judge (SD), Bhavnagar, comes to the conclusion that the appellant is entitled to sue as indigent person and his Misc.Civil Application No.

118 of 1990 is registered as a Suit, then, in that event, learned Civil Judge (SD), Bhavnagar, is directed to dispose of such suit within two months from the date of registering such suit on his file.

8. The order of status quo regarding the property involved in Misc. Civil Application No. 118 of 1990 shall be operated, either until disposal of Misc. Civil Application No.118 of 1990 or in case as aforesaid, if the suit is registered, then, till the disposal of such suit.

9. Office is directed to transmit the writ to the Civil Judge (SD), Bhavnagar, as expeditiously as possible but not later on one week from today.

10. With the above said order, this Appeal From Order and Civil Application No.352 of 1995, both are disposed of accordingly. No order as to costs.

(J.R. Vora, J.)
